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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,398	03/20/2001	Bruce D. Weintraub	UOFMD.003C1	2940

7590 10/17/2003

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Washington, DC 20036-2412

EXAMINER

SPECTOR, LORRAINE

ART UNIT	PAPER NUMBER
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1647

20

DATE MAILED: 10/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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Commissioner for Patents

Lorraine Spector, Ph.D.
Primary Examiner
Art Unit: 1647

The reply filed on 7/31/03 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): See 37 CFR 1.111.

Applicants response has been fully considered but is not deemed persuasive. As set forth in the original requirement:

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species of the elected species (a, b, or c, above) for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. That is, **to be fully responsive** to this Office Action, applicants must elect one of (a)-(d) above, **and**, if (a) is elected, a single species from group I, if (b) is elected a single species from group II, and if (c) is elected, a single species from group III. Currently, claims 2 and 7 are generic to species (a), claims 8 and 13 are generic to species (b), and claims 14 and 19 are generic to species (c).

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Thus, the generic claims, e.g. 1, 2 and 7, having been rejected as being anticipated under 35 U.S.C. § 102(b) in the Office Action sent 12/12/02, prosecution in this case is properly **restricted** under 35 U.S.C. § 121 to the elected embodiment, V79B.

While applicant argues that MPEP §803.02 should control in this case, given the presentation of claims to numerous additional embodiments rather than the cancellation of the specific embodiments found to be anticipated by the prior art, such argument is not persuasive.

Should applicants re-present original claim 6 with the embodiments previously found to be anticipated by the prior art (G71B, G75B, G79B and V80B) deleted from the claim, such amendment would be found to be responsive. Applicants are reminded that subject matter not previously

claimed will be considered to be non-elected by original presentation, and will not be examined, and claims to embodiments that were not within the Markush group of original claim 6 will not be examined.

Applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Advisory Information:

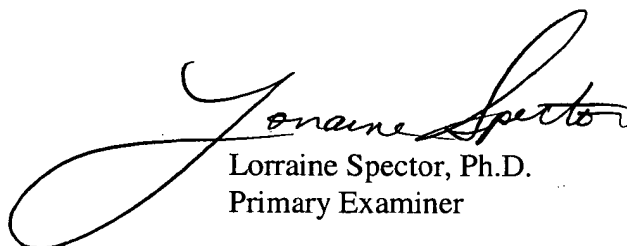
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Lorraine M. Spector, whose telephone number is (703) 308-1793. Dr. Spector can normally be reached Monday through Friday, 9:00 A.M. to 5:30 P.M.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dr. Gary L. Kunz, at (703)308-4623.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist at telephone number (703) 308-0196.

Certain papers related to this application may be submitted to Group 1800 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1 (CM1). The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 C.F.R. § 1.6(d)). NOTE: If Applicant *does* submit a paper by fax, the original signed copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers in the Office.

Official papers filed by fax should be directed to (703) 872-9306 (before final rejection) or (703)872-9307 (after final). Faxed draft or informal communications with the examiner should be directed to (703) 746-5228.



Lorraine Spector, Ph.D.
Primary Examiner